

**BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA**

William Arterberry, M.D. dba FARM ACW, a  
Sole Proprietorship Company,

Complainant,

vs.

SAN DIEGO GAS & ELECTRIC, a California  
public utility,

Defendant.

Case 05-07-001  
(Filed July 5, 2005)

**SCOPING MEMO AND RULING OF ASSIGNED COMMISSIONER**

**1. Introduction**

Pursuant to Rule 6(b)(3) and 6.3 of the Commission's Rules of Practice and Procedure, this scoping memo confirms the category for this proceeding, designates the presiding officer, and sets forth the issues and schedule for hearing.

Complainant requests an order declaring that complainant (1) has had non-mobile, on-site, self-generation capacity prior to December 20, 1995, (2) is exempt from defendant's Rule 23 CTC tariffs and Rate Schedule E-Depart charges, and (3) that defendant is precluded from assessing these charges against complainant. Defendant denies the allegations.

## **2. Categorization of Proceeding; Presiding Officer**

C.05-07-001 is categorized as “Adjudicatory,” as defined in Rule 5(b) of the Rules of Practice and Procedure. An evidentiary hearing is necessary.

The presiding officer for this proceeding is Administrative Law Judge (ALJ) Robert Barnett.

## **3. Ex Parte Rules**

The Commission’s ex parte rules applicable to this proceeding are set forth in Rule 7(b), which provides that ex parte communications are prohibited in adjudicatory proceedings.

## **4. Scoping Memo**

The scope of this proceeding is governed by the assertions in the complaint and answer. The following specific issues are to be addressed at hearing:

1. Whether complainant’s existing generator equipment was used during periods when utility service was unavailable;
2. Whether complainant was operating in parallel with the utility’s power grid;
3. Whether defendant’s Rule 23.c.2.e. and Pub. Util. Code § 372(a)(3) apply to this factual situation;
4. Whether complainant is entitled to the Rule 23 exemption for non-mobile, on-site, self-generation operational on or before December 20, 1995, and is exempt from Rate Schedule E-Depart;
5. Whether complainant’s generators have been operational since before December 20, 1995 and are non-mobile, on-site, self-generation generators;
6. Whether SDG&E improperly billed complainant for CTC charges in violation of Rule 23 at a time when SDG&E’s services were unavailable to complainant because SDG&E had removed its fuses; and

7. Whether complainant owes any sums or charges to SDG&E.

## **5. Procedural Schedule**

The schedule below is adopted for the service of testimony and hearing.

Evidentiary hearing:	August 28, 2006
San Diego State Office Building,	10:00 a.m.
1350 Front Street, Room B-107	
San Diego, CA	

## **6. Discovery Matters**

In the event that parties are not able to resolve any disputes over discovery on a reasonably prompt basis, they are directed to bring the dispute before the assigned ALJ in the form of a motion to compel. Any such motion shall identify specifically the nature of any dispute, with justification for the production of any discovery materials. Responses to such motions shall be filed and served within three business days.

**IT IS RULED** that:

1. This ruling confirms the categorization of this proceeding as adjudicative.
2. The presiding officer for this proceeding is ALJ Robert Barnett.
3. The ex parte rules set forth in Rule 7(b) shall apply to this proceeding.

Dated April 17, 2006, at San Francisco, California.

/s/ GEOFFREY F. BROWN

Geoffrey F. Brown  
Assigned Commissioner

**CERTIFICATE OF SERVICE**

I certify that I have by mail this day served a true copy of the original attached Scoping Memo and Ruling of Assigned Commissioner on all parties of record in this proceeding or their attorneys of record.

Dated April 17, 2006, at San Francisco, California.

/s/ JOYCE TOM

Joyce Tom

**N O T I C E**

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

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If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at (415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.